



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/387,949	09/01/1999	MITSUHIRO KAWAGUCHI	FUJS-16.462	3207

7590 06/24/2004

KATTEN MUCHIN ZAVIS ROSENMAN
575 MADISON AVENUE
NEW YORK, NY 10022-2585

EXAMINER

ABELSON, RONALD B

ART UNIT	PAPER NUMBER
----------	--------------

2666

DATE MAILED: 06/24/2004

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/387,949

Applicant(s)

KAWAGUCHI ET AL.

Examiner

Ronald Abelson

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-7 is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 September 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 2666

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/19/2004 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1 and 2 recites the limitation "said selective outputting operation" in lines 13 and 19 respectively. There is insufficient antecedent basis for this limitation in the claim.

Claim Objections

4. Claim 1 is objected to because of the following informalities: Line 1 refers to "cross-connect operation on a

Art Unit: 2666

main signal" while line 11 refers to "cross-connect operation for the main signal". Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by Azuma (US 6,430,150).

Regarding claims 1 and 2, Azuma teaches a method and apparatus for a cross-connect method (fig. 6 box 14, 16, 18, 30, 32, col. 7 lines 51 - 60) for performing a cross-connect

Art Unit: 2666

operation on a main signal including a working channel signal / working path and a protection channel signal / alternate virtual path (col. 8 lines 55 - 65).

The system comprises retaining line setting information for the cross-connect operation (fig. 6 box 32, 30, col. 8 line 55 - col. 9 line 8).

The system comprises detecting trigger information (fig. 6 box 10, col. 7 lines 42-53), causing a selection of one of the working path and the protection path (fig. 6 box 14, 16, col. 8 lines 59-63), for an individual channel signal from the main signal (fig. 6 element 34, col. 7 lines col. 7 lines 62-65).

The system comprises cross-connecting trigger information pieces (fig. 6 box 16) detected for the individual channel signal according to the line setting information (fig. 6 box 32, 30, col. 8 line 55 - col. 9 line 8).

The system comprises controlling the cross-connect operation of the main signal (fig. 6 box 16) based on the line setting information (fig. 6 box 32, 30) and the cross-connected trigger information pieces (fig. 6 box 10) so that one of the working channel signal and the protection channel signal is selectively output under the cross-connect operation of the main signal (col. 8 line 59 - 63), wherein said cross connect operation is shared for cross-connecting and said selectively

Art Unit: 2666

outputting operation (fig. 6 box 30, 32, SW, col. 8 lines 19-23). Note, the examiner contends "said cross connect operation is shared for cross-connecting and said selectively outputting operation" since the output of the cross-connecting part (fig. 6 box 16) is sent to the switch (fig. 6 box SW). The switch executes the actual cross connection (col. 8 lines 19-23). Therefore the examiner contends that Azuma performs the function of said cross connect operation is shared for cross-connecting and said selectively outputting operation.

Regarding claim 3, an alarm detection section (fig. 6 box 10, col. 4 lines 38 - 49).

The system comprises an alarm information cross connect section (fig. 6 box 16) for cross-connecting alarm information pieces, detected by said alarm detection system (fig. 6 box 10), based on said line setting information retained in said memory section (fig. 6 box 30, 32).

The system comprises a switch control section (fig. 6 box 16) for generating selection information (fig. 6 box 16 see output to switch), for selectively outputting the working signal or the protection signal (col. 8 lines 59-63) under the main signal cross-connection operation (fig. 6 element 34), based on the line setting information (fig. 6 box 30, 32) and the cross-

Art Unit: 2666

connected alarm information by said alarm information cross-connect section for outputting said selection information (fig. 6 box 10, 16).

The said cross-connect operation for the main signal being operable to perform the main signal cross-connect operation based on said selection information output from said switch control section (fig. 6 box 16), wherein said cross connect operation is shared for said cross-connecting and selective outputting operation (fig. 6 box 30, 32, SW, col. 8 lines 19-23). Note, the examiner contends "said cross connect operation is shared for cross-connecting and said selectively outputting operation" since the output of the cross-connecting part (fig. 6 box 16) is sent to the switch (fig. 6 box SW). The switch executes the actual cross connection (col. 8 lines 19-23). Therefore the examiner contends that Azuma performs the function of said cross connect operation is shared for cross-connecting and said selectively outputting operation.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2666

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Azuma as applied to claim 1 above, and further in view of Renaudin (US 4,388,715).

Azuma fails to teach prioritized alarm detection information.

Renaudin teaches prioritization of alarm signals (fig. 1 box LGa, LGb, col. 1 lines 50-55).

Art Unit: 2666

Therefore it would have been obvious to one of ordinary skill in the art, having both Azuma and Renaudin before him/her and with the teachings [a] as shown by Azuma, a cross connect apparatus comprising a working path and alternate path, and [b] as shown by Renaudin, prioritized alarm detection information, to be motivated to modify the system of Azuma by using alarm signals with different priority levels. This modification could be performed in software. This would improve the system since the most critical problems will be responded to first.

Allowable Subject Matter

10. Claims 5-7 are allowed.

11. The following is a statement of reasons for the indication of allowable subject matter: Regarding claim 5, nothing in the prior art teaches or fairly suggests a concatenation information detection section, in combination with the other limitations listed in the claim.

Response to Arguments

12. Applicant's arguments, see pg. 18 lines 12-19, filed 4/19/2004, with respect to claims 5-7 have been fully considered

Art Unit: 2666

and are persuasive. The claims should have been allowed instead of objected to in the last office action.

Applicant's arguments filed 4/19/2004 with respect to claims 1 and 2, see pg. 20 lines 14-17, have been fully considered but they are not persuasive. Applicant argues that Azuma fails to provide a cross-connection operation that is shared between the cross-connect operation and the switching operation of the main signal. The limitation "the switching operation" is not in the claims. The claims recite the limitation, "said cross connect operation is shared for cross-connecting and said selectively outputting operation". As stated previously, "said selectively outputting operation" lacks antecedent basis.

As stated previously, since the applicant has not defined "said selectively outputting operation" in the claims, the examiner defines this operation to be the alternate route setting that is performed in fig 6 box 30, 32. Note, from fig. 6 the outputs of boxes 30 and 32 are sent to the switch (fig. 6 box SW). The switch executes the actual cross connection (col. 8 lines 19-23). Therefore the examiner contends that Azuma performs the function of said cross connect operation is shared for cross-connecting and said selectively outputting operation.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Abelson whose telephone number is (703) 306-5622. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on (703) 308-5463. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ra
Ronald Abelson
Examiner
Art Unit 2666

Application/Control Number: 09/387,949

Page 11

Art Unit: 2666

6/9/04

Seema S. Rao
SEEMA S. RAO 6/18/04
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600